



## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-9919-01-R9]**

### **UNITED STATES INTERNATIONAL BOUNDARY AND WATER COMMISSION**

#### **United States–Mexico–Canada Agreement Mitigation of Contaminated Transboundary Flows Project**

**AGENCY:** Environmental Protection Agency (EPA); United States International Boundary and Water Commission.

**ACTION:** Notice of availability of draft programmatic environmental impact statement; notice of virtual public comment meetings; request for comments.

**SUMMARY:** In accordance with regulations implementing the National Environmental Policy Act (NEPA), as amended, the Environmental Protection Agency (EPA) and U.S. International Boundary and Water Commission (USIBWC), as joint lead agencies, have prepared a Draft Programmatic Environmental Impact Statement (Draft PEIS) for the proposed United States–Mexico–Canada Agreement (USMCA) Mitigation of Contaminated Transboundary Flows Project (the Proposed Action). The Proposed Action involves the planning, design, and construction of infrastructure to reduce transboundary flows of untreated wastewater (sewage), trash, and sediment that routinely enter the U.S. from Mexico via the Tijuana River, its tributaries, and across the maritime boundary along the San Diego County coast. These transboundary flows impact public health and the environment and have been linked to beach closures along the San Diego County coast. EPA and USIBWC have evaluated the Proposed Action, including alternatives, located in the Tijuana River area in southern San Diego County, California in the U.S. and in the Tijuana region in Mexico. This Notice initiates the comment process by inviting comments from Federal, State, and local agencies; Native American tribes; interested stakeholders; and the public on the Proposed Action, including alternatives, and

environmental consequences examined in the Draft PEIS. EPA and USIBWC are also providing notice of virtual public comment meetings that are open to all interested parties.

**DATES:** Public comment meetings will be held virtually on July 19, 2022, 6:30 p.m. to 8:30 p.m. Pacific Daylight Time (PDT) and July 20, 2022, 2 p.m. to 4 p.m. (PDT). A formal presentation on the proposed project will be provided at the meetings, followed by an opportunity for public comment. Written public comments are due to EPA and USIBWC by 5:00 p.m. (PDT) within the 45 days from the date of the publication of the EPA Notification of Availability of Programmatic Environmental Impact Statements in the Federal Register. Please go to: <https://www.epa.gov/sustainable-water-infrastructure/usmca-tijuana-river-watershed> for more information regarding the public comment meetings.

**ADDRESS:** Written comments shall be submitted to the following e-mail address: *Tijuana-Transboundary-EIS@epa.gov*

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Borowiec, 415-972-3419, *borowiec.elizabeth@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

*Background:* EPA and USIBWC, as joint lead agencies, in accordance with the requirements of NEPA (42 U.S.C. 4321–4347), Council on Environmental Quality NEPA Implementing Regulations (40 Code of Federal Regulations [CFR] 1500–1508 [2022]), EPA Procedures for Implementing NEPA (40 CFR Part 6), and USIBWC NEPA Implementing Procedures (48 FR 44083), have prepared a Draft PEIS for the Proposed Action. EPA and USIBWC invite public comment on the scope of the Draft PEIS, the Proposed Action (including alternatives considered), specific environmental issues evaluated, relevant information and analyses, the identified impacts of the alternatives, and applicable mitigation measures.

The San Diego–Tijuana region has faced persistent transboundary flows of contaminated wastewater originating in Mexico for many years. The three primary entryways of these transboundary flows into the U.S. are in coastal waters of the Pacific Ocean, the Tijuana River,

and tributaries flowing north through canyons to the Tijuana River. Seasonal marine currents cause coastal discharges of largely untreated wastewater (sewage) from the Tijuana area to migrate north along the Pacific Ocean coast into the U.S. These discharges impact southern San Diego County beaches, especially during the summer. Additionally, transboundary flows in the Tijuana River and its canyon tributaries routinely reach the U.S., bringing untreated wastewater (sewage), trash, and sediment into the U.S. These contaminated flows can reach the Pacific Ocean through the Tijuana River Valley and Estuary and migrate north along the coast, compounding the impacts of coastal discharges from the Tijuana area. Collectively, these polluted transboundary flows impact the environment and public health in communities along the border and the coast, public access to beaches and recreational opportunities in southern California, and the personnel and activities of U.S. Customs and Border Protection (CBP) and the U.S. Navy.

For several years, EPA and USIBWC have engaged with agencies, elected officials, and stakeholder groups in the San Diego–Tijuana region in both the U.S. and Mexico to address transboundary pollution issues. The USMCA Implementation Act, signed into law in January 2020, appropriated funds to EPA for implementation of wastewater infrastructure projects at the U.S.-Mexico border and authorized EPA, in coordination with eligible public entities, to plan, design, and construct wastewater (including stormwater) treatment projects in the Tijuana River area. In accordance with the USMCA legislation, EPA established the Eligible Public Entities Coordinating Group, consisting of Federal, State, and local stakeholders, and solicited their input on a set of project options to be considered for evaluation.

On April 5, 2021, EPA published a Notice of Intent (NOI) to prepare an EIS (86 FR 17595) for the Proposed Action. Since the NOI was issued, EPA identified specific alternatives to be evaluated and prepared a Draft Programmatic EIS (Draft PEIS) for the Proposed Action, which sets forth a framework for tiered decision making in accordance with 40 CFR 1501.11.

*Purpose and Need for the Proposed Action:* In accordance with the Clean Water Act and the USMCA Implementation Act, the purpose and need of this action is to reduce transboundary flows from Tijuana that convey pollutants, sewage, and/or trash into the U.S. and cause adverse public health and environmental impacts in the Tijuana River watershed and neighboring coastal areas in the U.S. as described in the preceding section.

*Purpose of the Programmatic EIS:* The Draft PEIS is a programmatic NEPA document that evaluates environmental impacts of broad agency actions such as a wide range of individual projects, implementation over a long timeframe, or implementation across a large geographic area. The Draft PEIS establishes a tiering process for subsequent agency decisions that is supported, in part, by the analysis detailed in the Draft PEIS. The initial programmatic decision to be made in this Draft PEIS is whether EPA and the USIBWC should consider funding and implementing water infrastructure projects that reduce transboundary flows in the Tijuana River watershed and adjacent coastal areas. The Draft PEIS evaluates: 1) the No-Action Alternative (no disbursement of funding and continuation of current wastewater management practices; 2) Alternative 1 (a limited approach); or 3) Alternative 2 (a more comprehensive solution). The Core projects found in Alternative 1 are sufficiently developed to be ready for decision making and, after completing the NEPA process, would be considered analyzed in sufficient detail for immediate action. In contrast, Alternative 2 includes a larger range of projects known as the Supplemental Projects, several of which are not yet ready for decision making. These Supplemental Projects require additional consideration in subsequent tiered NEPA documents before a decision can be made and action can be taken (for additional information on tiering, refer to 40 CFR 1501.11). By establishing this Draft PEIS, EPA and USIBWC aim to accomplish the following:

- Make a broad programmatic decision about which funding approach to take,
- Provide a comprehensive baseline analysis from which subsequent site-specific proposals (Supplemental Projects) can be tiered,

- Efficiently analyze and make decisions on funds for Core Projects that are more evolved in planning and design than Supplemental Projects and thus ready for decision making,
- Avoid repetition by using the Draft PEIS as a foundation for the environmental review in subsequent tiered NEPA documents, and
- Streamline the later environmental review processes of Supplemental Projects so that they may move forward as soon as they are sufficiently developed for decision making and action.

*Proposed Action and Alternatives:* The EPA and IBWC's Proposed Action is the implementation of projects to address impacts from transboundary flows in the Tijuana River watershed and adjacent coastal areas. Because of the programmatic nature of the decisions to be made, only the Core projects could be implemented at the completion of this NEPA process. The Supplemental projects would require additional tiered review before being implemented. The Proposed Action addresses the purpose and need stated above by:

- Reducing the generation and/or discharge of contaminated flows from point and nonpoint sources of pollution in the Tijuana region,
- Improving the collection and/or treatment of contaminated flows in the Tijuana region before they reach the U.S.-Mexico border, and
- Improving the collection and/or treatment of contaminated transboundary flows in the U.S.

The Draft PEIS evaluates a No-Action Alternative and two alternatives for implementing the Proposed Action:

- **No-Action Alternative.** This alternative would not implement the Proposed Action. NEPA requires that a No-Action Alternative be analyzed to determine the environmental consequences of not undertaking the Proposed Action, and thereby providing a baseline against which the potential beneficial and adverse environmental impacts of action alternatives can be evaluated and compared.

- Alternative 1: Core Projects.** Under this alternative, EPA would fund some components of the Comprehensive Infrastructure Solution that are the responsibility of the U.S., pursuant to the terms of the final cost sharing agreement between the U.S. and Mexico. This approach would fund and implement only those projects that are sufficiently developed and ready for decision making and *is not expected* to require substantial additional U.S. funding beyond the USMCA Implementation Act appropriation and funds from existing programs such as EPA's Border Water Infrastructure Program (BWIP). Alternative 1 includes four Core Projects: Projects A (Expanded South Bay International Wastewater Treatment Plant [ITP]), B (Tijuana Canyon Flows to ITP), C (Tijuana Sewer Repairs), and D (Advanced Primary Treatment Plant [APTP] Phase 1).
- Alternative 2: Core and Supplemental Projects.** Under this alternative, EPA would use U.S. appropriations to fund *all components* of the Comprehensive Infrastructure Solution that are the responsibility of the U.S., pursuant to the terms of the final cost sharing agreement between the U.S. and Mexico. This more comprehensive approach *is expected* to require additional funding beyond the USMCA Implementation Act appropriations and funds from existing programs such as EPA's BWIP. EPA is in the process of identifying additional opportunities for Federal funding and/or State appropriations that could be used to fully implement the Comprehensive Infrastructure Solution. Alternative 2 includes the four Core Projects (from Alternative 1) and six Supplemental Projects (10 projects in total) and would provide a more comprehensive solution for reducing contaminated transboundary flows. The six Supplemental Projects are Projects E (APTP Phase 2), F (U.S.-side River Diversion to APTP), G (New San Antonio de los Buenos Wastewater Treatment Plant [SABTP]), H (Tijuana Wastewater Treatment Plant Treated Effluent Reuse), I (ITP Treated Effluent Reuse), and J (Trash Boom[s]).

A preferred alternative has not been identified at this time. Descriptions of the alternatives, including descriptions of Core and Supplemental Projects, can be found in the Draft PEIS and on

the project website at <https://www.epa.gov/sustainable-water-infrastructure/usmca-tijuana-river-watershed>.

*Summary of Expected Impacts:* The Proposed Action is expected to have beneficial impacts to public safety and water quality in the Tijuana River watershed and adjacent coastal areas. The Proposed Action covers a large geographic area and would impact a broad range of resource areas, including water resources, geologic resources, the coastal zone, air quality, climate, biological resources, cultural resources, land use, visual resources, solid and hazardous waste, energy, public services and utilities, public health and safety, transportation, noise, socioeconomics, and environmental justice. The impacts to these resources are analyzed in the Draft PEIS.

*Anticipated Permits and Authorization:* Implementation of the Proposed Action may require Federal authorizations, permits, or consultations pursuant to the Endangered Species Act, Clean Water Act, National Historic Preservation Act, and Coastal Zone Management Act. EPA has initiated engagement with Federal agencies such as the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and U.S. Army Corps of Engineers and is working closely with other binational, State, and local agencies and stakeholders.

*Public Comment:* EPA and USIBWC have established a 45-day public comment period for the Draft PEIS. The 45-day public comment period will start upon publication of the EPA Notice of Availability (NOA) of Programmatic Environmental Impact Statements in the Federal Register. Comments on the Draft PEIS must be received by 5 p.m. Pacific Daylight Time within 45 days after publication of the NOA. EPA and USIBWC are requesting written comments from Federal, State, and local governments, industry, non-governmental organizations, and the general public on:

- The range of alternatives considered,
- The environmental issues evaluated,
- The submitted alternatives, information, and analyses and the summary thereof, and/or

- Measures to mitigate the environmental consequences of the Proposed Action.

Public comment meetings will be held virtually on July 19, 2022. and July 20, 2022.

Consult the “Dates” section above for further information on the public comment meetings. All interested parties are encouraged to attend. Pursuant to 40 CFR 1503.3, comments on the Draft PEIS shall be as specific as possible, may address the adequacy of the Draft PEIS and/or the merits of the alternatives, and shall provide sufficient detail to meaningfully participate and fully inform EPA and USIBWC of the commenter’s position. Commenters should explain the importance of their comments to the consideration of potential impacts and alternatives to the Proposed Action, as well as economic and employment impacts, and other impacts affecting the quality of the human environment. Comments on the submitted alternatives, information, and analyses and summary should be as specific as possible. Comments and objections of any kind shall be raised within the comment period on the Draft PEIS. Commentors should reference the corresponding section or page number of the Draft PEIS; propose specific changes where possible; and include data sources and methodologies supporting any proposed changes.

*Estimated Date of Final PEIS Release:* Once the public review and comment process is complete, EPA and USIBWC will prepare a Final PEIS and will publish a Federal Register notice announcing its public availability. EPA and USIBWC will provide the public with an opportunity to review and comment on the Final PEIS. After EPA and USIBWC consider those comments, EPA and USIBWC will prepare the final ROD and similarly announce its availability. Comments received during the Draft PEIS review period will be made available in the Final PEIS. The Final PEIS is expected to be released by November 2022.

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